




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: The Commissioners
Staff Director
Deputy Staff Director
General Counsel

FROM: Office of the Commission Secretary 

DATE: August 26, 2002

SUBJECT: Statement Of Reasons for MUR 5189

Attached is a copy of the Statement Of Reasons for MUR 5189
signed by Chairman David M. Mason, Vice Chairman Karl J. Sandstrom,
Commissioner Danny L. McDonald, Commissioner Bradley A. Smith,
and Commissioner Scott E. Thomas.

This was received in the Commission Secretary's Office on
Monday, August 26, 2002 at 10:50 a.m.

cc: Vincent J. Convery, Jr.
OGC Docket (5)
Information Division
Press Office
Public Disclosure

Attachment

6654-504-40-22



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In re Friends of Giuliani, et al.

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MUR 5189

STATEMENT OF REASONS

On October 29, 2001, the Office of General Counsel recommended that the Commission, pursuant to the Enforcement Priority System, take no action in MUR 5189 because the matter was less significant relative to other matters pending before the Commission. In lieu of approving this recommendation, the Commission, on November 6, 2001, voted unanimously to find no reason to believe that any of the named respondents violated any provision of the Federal Election Campaign Act as a result of the activities described in the complaint.¹

Complaint and Response

Complainant alleged that, after Mayor Giuliani withdrew from his race for the Senate during the primary campaign, she requested a refund from Friends of Giuliani of the \$100 contribution that she had made on February 7, 2000 and which she contended had been specified for use in the general election.

Attached to the Friends of Giuliani Exploratory Committee's Response was a copy of Complainant's contribution check. The memo line of the check states that it is "To retire HRC from public life."² An affidavit from the Giuliani Committee's assistant treasurer states that a "reasonably diligent search" of the Committee's files yielded neither a transmittal letter from Complainant indicating that she had designated her contribution for the general election nor a copy of a receipt sent to Complainant in connection with her contribution.

¹ Commissioner Wold voted to find no reason to believe. Commissioner Toner replaced Commissioner Wold before the issuance of this Statement.

² While this language hints at a potential general election match-up, it is not sufficiently clear. 11 CFR 110.1(b)(4).

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Analysis

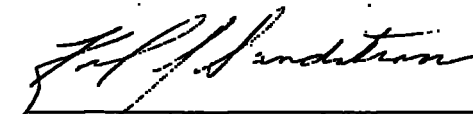
Contributions not designated in writing for a particular election are deemed designated for the next election after the contribution is made. 11 CFR 110.1(b)(2)(ii). If a candidate is not a candidate in a general election, all contributions made for the general election shall be either refunded, redesignated for a different election or reattributed to another person (if appropriate, as in conjunction with a redesignation). 11 CFR 102.9(e); 110.1(b)(3)(i).

There is an absence of evidence to corroborate the Complainant's contention that the contribution was designated for the general election. Consequently, as the Complainant's contribution was made on February 7, 2000 and the New York State Republican Party's nominating convention was held on May 30, 2000, her contribution is properly considered made with respect to the primary election. 11 CFR 110.1(b)(2)(ii). The Giuliani Committee, therefore, had no obligation to refund, redesignate or reattribute Complainant's contribution. We, thus, had no reason to believe that any of the named respondents violated any provision of the Federal Election Campaign Act as a result of the activities described in the Complaint.

August 27, 2002



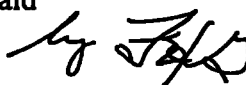
David M. Mason
Chairman

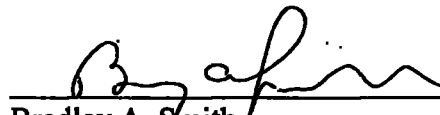


Karl J. Sandstrom
Vice Chairman



Danny L. McDonald
Commissioner





Bradley A. Smith
Commissioner



Scott E. Thomas
Commissioner

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